

**PHARMACY EXAMINING BOARD  
JULY 22, 2009  
MEETING MINUTES**

**PRESENT:** Timothy Boehmer, R.Ph.; Suzette Renwick; Jeanne Severson, R.Ph.; Jason Walker-Crawford, R.Ph. (left at 3:07 p.m.); Gregory C. Weber, R.Ph.; Pamela Phillips (joined at 9:30 a.m.)

**VIA PHONE:** Amy Mattila, R.Ph. (left at 12:32 p.m.)

**STAFF:** Tom Ryan, Bureau Director; Ruby Jefferson-Moore, DRL Board Counsel; Ben Hanes, Bureau Assistant; and other DRL Staff

**GUESTS:** Judy Warmuth, Wisconsin Hospital Association (WHA); Stephen Seaman, Wisconsin Psychological Association (WPA); Doug De Broux, Walgreens Co.; Rich Palombo, MEDCO Health Solutions; Gina Besteman, Women's International Pharmacy; Eric Knox, Department of Corrections (DOC); Jesse Meserole, UW-Madison School of Pharmacy (SOP); Tom Engels, Sarah Sorum, Berook Addisu and Libby Kuhr, Pharmacy Society of Wisconsin (PSW); Lisa Sobotkiewicz, Target Pharmacy; Greg Henn and Jason Knox, Community Memorial Hospital;; Jeremy Levin and Jo Prestin, Rural Wisconsin Health Cooperative (RWHC); Laurie Flagel Dean, Group Health Cooperative (GHC); Gary Plank, Marshfield Clinic;

**CALL TO ORDER**

Greg Weber, Board Chair, called the meeting to order at 9:03 a.m. A quorum of six members was confirmed.

**APPROVAL OF AGENDA**

**Amendments:**

- Item "L" – remove the appearance by William Black
- Item "N" – add appearance by Ernie Witzke, Impaired Professionals Procedure Task Force Committee
- Add "hearing testimony" to the discussion of Wis. Admin. Code § PHAR 4.02(2), preceding item "C"
- "Red folder" additions (items submitted after the agenda deadline):
  - Supplemental information to items "K," "L" and "Q"
  - "Consider closing case 09 PHM 036" (after item "S")
  - "Requesting stay and modification – Thomas Triscari" (after item "W")

**MOTION:** Jason Walker-Crawford moved, seconded by Jeanne Severson, to approve the agenda as amended. Motion carried unanimously.

## **APPROVAL OF MINUTES OF JUNE 24, 2009**

### **Corrections:**

- “Marshfield” misspelled on agenda p. 11
- On agenda p. 12, under “Application Review – MEDCO” change the comma to a period
- “Representative” misspelled on agenda p. 12

**MOTION:** Jeanne Severson moved, seconded by Jason Walker-Crawford, to approve the June 24, 2009 minutes as amended. Motion carried unanimously.

## **PRESENTATION OF PROPOSED STIPULATIONS**

### **BRIAN T. SCHWANZ, R.PH.**

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Brian T. Schwanz, R.Ph.

### **MICHAEL S. IVEY, R.PH.**

Attorney Jeanette Lytle, Division of Enforcement, appeared before the Board to present the proposed stipulation, final decision and order in the matter of disciplinary proceedings against Michael S. Ivey, R.Ph.

## **ADMINISTRATIVE REPORT**

### **Budget Report**

Tom Ryan reported to the Board on the recently passed budget as it affects the Department. The budget provides for the addition of a new bureau, which will be devoted to the Medical Examining Board and its affiliated credentialing boards and councils. The remaining bureaus have been restructured and the new Division of Board Services includes the Office of Legal Counsel.

### **Board Member Feedback on DRL Cost Reduction Ideas**

Regarding paperless agendas: Board members agree that some items do not need to be sent hard copy. Other challenges were discussed. The Board may space its meetings more evenly in the future.

Pamela Phillips joined the meeting at 9:30 a.m.

**WIS. ADMIN. CODE § PHAR 4.02 (2) RELATING TO THE PRACTICAL  
EXAMINATION – STATUS AND DISCUSSION OF HEARING TESTIMONY**

Greg Weber will testify at the July 28<sup>th</sup> hearing. Hector Colon appeared before the Board and informed them that he is waiting on a list of questions from Representative Benedict's office. He will forward those questions as soon as they are made available to him.

**MOTION:** Jason Walker-Crawford moved, seconded by Jeanne Severson, to appoint Greg Weber to represent the Board at the July 28<sup>th</sup> Assembly hearing regarding PHAR 4.02 (2), and to request that the Department also send examination specialist Sue Bird to testify at the hearing. Motion carried unanimously.

**DEPARTMENT OF HEALTH SERVICES (DHS) EMERGENCY VARIANCE -  
REVIEW OF LAWS AND RULES**

As part of their plan dealing with pandemic flu, DHS has asked the Board to consider which of its rules would be suspended in the event of such a public health emergency. The Board deferred discussion on this matter until the next meeting, with Jeanne Severson preparing preliminary recommendations.

**VARIANCE REPORT – QUADMED PHARMACIES DELIVERY VARIANCE -  
SUSSEX AND LOMIRA, WI**

The variance report from QuadMed Pharmacies, Sussex and Lomira, was reviewed.

**VARIANCE REPORT – AURORA SHEBOYGAN MEMORIAL MEDICAL  
CENTER TECH-CHECK-TECH VARIANCE – SHEBOYGAN, WI**

The variance report from Aurora Sheboygan Memorial Medical Center, Sheboygan, was reviewed.

**VARIANCE REPORT – AURORA ST. LUKE'S MEDICAL CENTER TECH-  
CHECK-TECH VARIANCE – MILWAUKEE, WI**

The variance report from Aurora St. Luke's Medical Center, Milwaukee, was reviewed.

**VARIANCE REPORT – UNIVERSITY OF WISCONSIN HOSPITAL AND  
CLINICS TECH-CHECK-TECH VARIANCE – MADISON, WI**

The variance report from University of Wisconsin Hospital and Clinics, Madison, was reviewed.

**PRACTICE QUESTION – PHARMACY LICENSURE FOR COUNTY JAIL  
FACILITIES AND DEA PERMITS – ERIN SCHEUERMANN – E-MAIL  
REQUEST**

The Board determined that the county jail facility does not need a pharmacy license.

**PRACTICE QUESTION – OFF-SITE DRUG STORAGE – TOM ENGELS,  
PHARMACY SOCIETY OF WISCONSIN – MADISON, WI**

The Board determined that the off-site storage facility did not meet the requirements for security outlined in the rules.

**PRACTICE QUESTIONS – E-PRESCRIBING AND RECORD KEEPING –  
SARAH SORUM – PHARMACY SOCIETY OF WISCONSIN – MADISON, WI**

The Board prepared some preliminary responses to the questions posed by the PSW:

- 1) Can Wisconsin pharmacies accept prescriptions transmitted electronically for CIII – V medications? Answer: no.
- 2) Can Wisconsin pharmacies accept prescriptions that are electronically signed and faxed to the pharmacy for CIII – V medications? Answer: no.
- 3) Can pharmacies use scanned copies of hard-copy prescriptions instead of the actual hard copies for record keeping purposes? Answer: yes, although some third parties may not accept photocopies unless they are 2-sided color copies.
- 4) When prescriptions are electronically transmitted to a pharmacy, what hard-copy or prescription record must be maintained? Do pharmacies need to print and file electronic prescriptions? Answer: hard-copy records do not need to be maintained, unless the medication is a controlled substance.

Ruby Jefferson-Moore will send Sarah Sorum a written response to her questions.

**CONTINUING EDUCATION – REQUEST FOR SPONSOR APPROVAL –  
VALERIE A. SCHEND, R.PH. – UNIVERSITY OF WISCONSIN – MADISON  
SCHOOL OF PHARMACY – MADISON, WI**

The Board considered the request. While the Board recognized that the course had value, questions were raised about credit equivalency. The Board considered revisiting its continuing education rules and possibly sponsors other than the Accreditation Council for Pharmacy Education (ACPE). Tom Ryan said he will provide some samples of other Boards' continuing education rules at the next meeting.

**MOTION:** Jason Walker-Crawford moved, seconded by Suzette Renwick, to deny the request to accept the credits at this time, with the request that the Board look into evaluating the AMA PRA category-1 credits for future consideration. Motion carried unanimously.

**APPLICATION REVIEW – TCG RX – DUANE CHUDY AND ROBERT FISHER  
- POWERS LAKE, WI**

Timothy Boehmer reviewed this application with the Board. The Board concluded that the activities of TCG RX do not fall under the practice of pharmacy.

**MOTION:** Timothy Boehmer moved, seconded by Jeanne Severson, to deny the pharmacy license application of TCG RX because it does not meet the definition of practice of pharmacy described in Wis. Stats. 450.01 (16) (a) - (k). Motion carried unanimously.

Kris Hendrickson noted that she would like to give TCG RX the option to reapply as a wholesale distributor.

**REMOTE DISPENSING - WIS. ADMIN. CODE § PHAR 7.09 – DISCUSSION  
AND RULE-WRITING. APPEARANCE – 11:00 A.M. – GARY PLANK,  
MARSHFIELD CLINIC**

Gary Plank and Dr. Bob Phillips from the Marshfield Clinic appeared before the Board to offer their opinions on remote dispensing. The Clinic advocates remote dispensing as a means of providing needed pharmaceuticals to patients who do not have convenient access to pharmacies. The Board considered geographic restrictions on dispensing sites, such as a minimum distance between a remote site and a licensed pharmacy. No changes were made to the Board's recommended guidelines.

Jason Walker-Crawford proposed several minor changes to the draft rule. Ruby Jefferson-Moore will correspond with Jason Walker-Crawford and incorporate those changes.

**MOTION:** Timothy Boehmer moved, seconded by Pamela Phillips, to approve the draft rule as amended for submission to the Legislative Clearinghouse, subject to review by Jason Walker-Crawford. Motion carried. Opposed: Amy Mattila.

**BOARD REVIEW OF CURRENT AND FUTURE RULEMAKING AND  
LEGISLATIVE INITIATIVES**

Noted.

**SUMMARY REPORTS ON ADMINISTRATIVE RULES**

Noted.

## **IMPAIRED PROFESSIONALS PROCEDURE (IPP) TASKFORCE RECOMMENDATIONS**

Ernie Witzke from the IPP taskforce presented the taskforce's recommendations to the Board. Sharon Henes answered questions.

### **REGULATORY DIGEST – GREG WEBER**

Greg Weber had no report or updates.

### **DOE INSPECTION LIAISON – AMY MATTILA**

Nothing to report.

### **CREDENTIALING LIAISON REPORT – TIMOTHY BOEHMER**

No additional information.

### **QUALITY REVIEW COUNCIL (QRC) REPORT**

No information to report as of now. The next meeting is in August; Jeanne Severson or Jason Walker-Crawford will attend and report back to the Board.

### **STATE COUNCIL ON ALCOHOL AND OTHER DRUG ABUSE (SCAODA) REPORT – PAMELA PHILLIPS**

Pamela Phillips had nothing to report as the Council did not meet.

Amy Mattila left the meeting at 12:32 p.m.

### **LEGISLATIVE LIAISON REPORT – JASON WALKER-CRAWFORD**

#### **Senate Bill 180, relating to granting prescriptive authority to psychologists**

The Board went on record at the last meeting opposing the bill, although the letter to the legislature has not yet been sent. Steve Seaman from the Wisconsin Psychological Association's taskforce on prescriptive authority appeared before the Board and answered questions. He will forward the education requirements for psychologists to the Board. The Board decided to defer this issue until the next meeting, and not take action on the letter to the legislature until then.

#### **Senate Bill 198, relating to donating drugs and dispensing donated drugs**

Noted.

**Assembly Bill 227, relating to directing the Pharmacy Examining Board to create a program to monitor the dispensing of prescription drugs and requiring the exercise of rule-making authority**

The Board has written a letter regarding this bill. A hearing will be held Tuesday, July 28<sup>th</sup>. The Board was briefed on the status of the planning relating to the Harold Rogers grant.

**MOTION:** Jason Walker-Crawford moved, seconded by Suzette Renwick, to appoint Jeanne Severson as the primary liaison to the Department regarding prescription drug monitoring, and Timothy Boehmer as her alternate. Motion carried unanimously.

**MOTION:** Jeanne Severson moved, seconded by Timothy Boehmer, to go on record supporting Assembly Bill 227 as amended per the Board's letter, and to authorize Greg Weber to speak on behalf of the Board at the July 28<sup>th</sup> hearing. Motion carried unanimously.

**Assembly Bill 241, relating to retail theft, proof of ownership for flea market sales**

Noted.

**Assembly Bill 56, relating to prohibiting the advertising of prescription drugs**

Noted.

**DRUG ENFORCEMENT ADMINISTRATION MONTHLY DRUG THEFT AND LOSS REPORTS**

No new reports.

**DISCUSSION OF PSW TECHNICIAN CREDENTIALING TASKFORCE RECOMMENDATIONS**

The Board expressed interest in pursuing the recommendations of the taskforce and agreed to continue discussion on this topic at the next meeting.

**INFORMATIONAL ITEMS**

The Board reviewed the informational items in the agenda packet.

**PUBLIC COMMENTS**

Several comments were made regarding pending legislation.

**CLOSED SESSION**

**MOTION:** Suzette Renwick moved, seconded by Jason Walker-Crawford, to convene to closed session to deliberate on case(s) following

hearing (Wis. Stat. § 19.85 (1) (a)); consider closing disciplinary investigation(s) with administrative warning(s) (Wis. Stat. § 19.85 (1) (b) and 440.205); to consider individual histories or disciplinary data (Wis. Stat. § 19.85 (1) (f)); and to confer with legal counsel (Wis. Stat. § 19.85 (1) (g)). Roll Call Vote: Timothy Boehmer-yes; Suzette Renwick-yes; Jeanne Severson-yes; Jason Walker-Crawford-yes; Gregory C. Weber-yes; Pamela Phillips-yes. Motion carried unanimously.

Open session recessed at 1:46 p.m.

Jason Walker-Crawford left the meeting at 3:07 p.m.

### **RECONVENE TO OPEN SESSION**

**MOTION:** Jeanne Severson moved, seconded by Suzette Renwick, to reconvene into open session. Motion carried unanimously.

Open session reconvened at 3:24 p.m.

### **VOTING ON ITEMS CONSIDERED/DELIBERATED IN CLOSED SESSION**

#### **PROPOSED STIPULATIONS, FINAL DECISIONS AND ORDERS**

##### **BRIAN T. SCHWANZ, R.PH.**

**MOTION:** Pamela Phillips moved, seconded by Jeanne Severson, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary matter concerning Brian T. Schwarz, R.Ph, subject to the parties amending paragraph 2 of the conclusions of law to read 7.01 (1) (e). Motion carried.

##### **MICHAEL S. IVEY, R.PH.**

**MOTION:** Jeanne Severson moved, seconded by Suzette Renwick, to adopt the Findings of Fact, Conclusions of Law, Final Decision and Order in the disciplinary matter concerning Michael S. Ivey, R.Ph. Motion carried unanimously.

### **CASE CLOSINGS**

#### **09 PHM 027**

**MOTION:** Jeanne Severson moved, seconded by Suzette Renwick, to close case 09 PHM 027 for reason P3. Motion carried. Abstain: Greg Weber.



**MONITORING**

**MILWAUKEE HERITAGE CLINIC  
REQUEST FOR FULL LICENSURE  
APPEARANCE – 1:00 P.M.**

**MOTION:** Jeanne Severson moved, seconded by Timothy Boehmer, to grant Milwaukee Heritage Clinic's request for full licensure. Motion carried unanimously.

**KURT KIESLING  
REQUEST FOR STAY OF SUSPENSION  
APPEARANCE – 1:30 P.M.**

Kurt Kiesling appeared with his attorney, Craig Albie, to request a stay of suspension. The Board deferred action on this item until the next meeting.

**JEROME MIDANEK  
REQUEST FOR FULL LICENSURE**

**MOTION:** Jeanne Severson moved, seconded by Jason Walker-Crawford to grant the request for full licensure to Jerome Midanek. Motion carried unanimously.

**GILLIAM SANFORD  
REQUEST FOR FULL LICENSURE**

The Board deferred the request for full licensure to Gilliam Sanford pending further information.

**THOMAS TRISCARI  
REQUEST FOR STAY AND MODIFICATION**

**MOTION:** Jeanne Severson moved, seconded by Jason Walker-Crawford, to reduce the number of required therapy sessions from once every three months to once every six months, and to grant a three-month stay of suspension to Thomas Triscari. Motion carried unanimously.

**ADJOURNMENT**

**MOTION:** Jeanne Severson moved, seconded by Suzette Renwick, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:29 p.m.